

DEPARTMENT OF ENVIRONMENTAL QUALITY AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

LONG TITLE**General Description:**

This bill amends provisions relating to the Water Quality Board.

Highlighted Provisions:

This bill:

- ▶ provides for Legislative approval of certain Water Quality Board rules or standards;
- ▶ modifies the duties of the Administrative Rules Review Committee; and
- ▶ makes technical amendments.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

19-5-104.5, as enacted by Laws of Utah 2011, Chapter 304

63G-3-501, as last amended by Laws of Utah 2016, Chapter 193

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **19-5-104.5** is amended to read:

19-5-104.5. Legislative approval.

(1) Before sending a board-approved report, strategy, or recommendation that will recommend a total maximum daily load end point and implementation strategy to the EPA for review and approval, the Water Quality Board shall submit the report, strategy, or recommendation:

(a) for review to the Natural Resources, Agriculture, and Environment Interim Committee if the report, strategy, or recommendation will require a public or private expenditure in excess of \$10,000,000 but less than \$100,000,000 for compliance; or

(b) for approval to the Legislature if the strategy will require a public or private

33 expenditure of \$100,000,000 or more.

34 (2) Before the board adopts a state-established nitrogen, phosphorus, or ammonia rule
35 or standard, the board shall submit the rule or standard for approval to the Legislature if the
36 rule or standard will require an individual public facility, or group of private agricultural
37 facilities, with an approved Utah pollutant discharge elimination system permit to make an
38 expenditure of \$10,000,000 or more for compliance either through an initial capital investment
39 or through operational costs over a 20-year period.

40 (3) (a) An impacted facility, using an independent licensed engineer employed by a
41 facility, shall determine an expenditure under this Section using industry-accepted project
42 budgetary cost estimate methods.

43 (b) The board may evaluate and report on an expenditure estimate determined under
44 Subsection (3)(a).

45 ~~(2)~~ (4) In reviewing a report, strategy, or recommendation under Subsection (1)(a),
46 the Natural Resources, Agriculture, and Environment Interim Committee may:

47 (a) suggest additional areas of consideration; ~~or~~ and

48 (b) recommend the report, strategy, or recommendation be re-evaluated by the Water
49 Quality Board.

50 Section 2. Section **63G-3-501** is amended to read:

51 **63G-3-501. Administrative Rules Review Committee.**

52 (1) (a) There is created an Administrative Rules Review Committee of the following
53 10 permanent members:

54 (i) five members of the Senate appointed by the president of the Senate, no more than
55 three of whom may be from the same political party; and

56 (ii) five members of the House of Representatives appointed by the speaker of the
57 House of Representatives, no more than three of whom may be from the same political party.

58 (b) Each permanent member shall serve:

59 (i) for a two-year term; or

60 (ii) until the permanent member's successor is appointed.

61 (c) (i) A vacancy exists when a permanent member ceases to be a member of the
62 Legislature, or when a permanent member resigns from the committee.

63 (ii) When a vacancy exists:

64 (A) if the departing member is a member of the Senate, the president of the Senate
65 shall appoint a member of the Senate to fill the vacancy; or

66 (B) if the departing member is a member of the House of Representatives, the speaker
67 of the House of Representatives shall appoint a member of the House of Representatives to fill
68 the vacancy.

69 (iii) The newly appointed member shall serve the remainder of the departing member's
70 unexpired term.

71 (d) (i) The president of the Senate shall designate a member of the Senate appointed
72 under Subsection (1)(a)(i) as a cochair of the committee.

73 (ii) The speaker of the House of Representatives shall designate a member of the
74 House of Representatives appointed under Subsection (1)(a)(ii) as a cochair of the committee.

75 (e) Three representatives and three senators from the permanent members are a quorum
76 for the transaction of business at any meeting.

77 (f) (i) Subject to Subsection (1)(f)(ii), the committee shall meet at least once each
78 month to review new agency rules, amendments to existing agency rules, and repeals of
79 existing agency rules.

80 (ii) The committee chairs may suspend the meeting requirement described in
81 Subsection (1)(f)(i) at the committee chairs' discretion.

82 (2) The office shall submit a copy of each issue of the bulletin to the committee.

83 (3) (a) The committee shall exercise continuous oversight of the rulemaking process.

84 (b) The committee shall examine each rule submitted by an agency to determine:

85 (i) whether the rule is authorized by statute;

86 (ii) whether the rule complies with legislative intent;

87 (iii) the rule's impact on the economy and the government operations of the state and
88 local political subdivisions; ~~and~~

89 (iv) the rule's impact on affected persons[-];

90 (v) the rule's total cost to entities regulated by the state;

91 (vi) the rules benefits to the citizens of the state; and

92 (vii) whether adoption of the rule requires legislative notice or approval.

93 (c) To carry out these duties, the committee may examine any other issues that the
94 committee considers necessary. The committee may also notify and refer rules to the chairs of

95 the interim committee that has jurisdiction over a particular agency when the committee
96 determines that an issue involved in an agency's rules may be more appropriately addressed by
97 that committee.

98 (d) In reviewing a rule, the committee shall follow generally accepted principles of
99 statutory construction.

100 (4) When the committee reviews existing rules, the committee chairs shall invite the
101 Senate and House chairs of the standing committee and of the appropriation subcommittee that
102 have jurisdiction over the agency whose existing rules are being reviewed to participate as
103 nonvoting, ex officio members with the committee.

104 (5) The committee may request that the Office of the Legislative Fiscal Analyst prepare
105 a fiscal note on any rule.

106 (6) If the fiscal impact of a rule is greater than \$2,000,000 to a single entity or
107 \$50,000,000 to a group of entities, as determined by the Office of the Legislative Fiscal
108 Analyst, the rule shall be referred to the relevant appropriations subcommittee for review.

109 [~~6~~] (7) In order to accomplish the committee's functions described in this chapter, the
110 committee has all the powers granted to legislative interim committees under Section 36-12-11.

111 [~~7~~] (8) (a) The committee may prepare written findings of the committee's review of a
112 rule and may include any recommendations, including legislative action.

113 (b) When the committee reviews a rule, the committee shall provide to the agency that
114 enacted the rule:

115 (i) the committee's findings, if any; and

116 (ii) a request that the agency notify the committee of any changes the agency makes to
117 the rule.

118 (c) The committee shall provide a copy of the committee's findings, if any, to:

119 (i) any member of the Legislature, upon request;

120 (ii) any person affected by the rule, upon request;

121 (iii) the president of the Senate;

122 (iv) the speaker of the House of Representatives;

123 (v) the Senate and House chairs of the standing committee that has jurisdiction over the
124 agency that made the rule; and

125 (vi) the Senate and House chairs of the appropriation subcommittee that has

126 jurisdiction over the agency that made the rule.

127 ~~[(8)]~~ (9) (a) The committee may submit a report on its review of state agency rules to
128 each member of the Legislature at each regular session.

129 (b) The report shall include:

130 (i) any findings and recommendations the committee made under Subsection ~~[(7)]~~ (8);

131 (ii) any action an agency took in response to committee recommendations; and

132 (iii) any recommendations by the committee for legislation.